

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Circuit Mediation Office

Phone (415) 355-7900 Fax (415) 355-8566

<http://www.ca9.uscourts.gov/mediation>

MEDIATION QUESTIONNAIRE

The purpose of this questionnaire is to help the court's mediators provide the best possible mediation service in this case; it serves no other function. Responses to this questionnaire are **not** confidential. Appellants/Petitioners must electronically file this document within 7 days of the docketing of the case. 9th Cir. R. 3-4 and 15-2. Appellees/Respondents may file the questionnaire, but are not required to do so.

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| 9th Circuit Case Number(s): | 16-15192 | | |
| District Court/Agency Case Number(s): | 3:15-cv-01381-EMC | | |
| District Court/Agency Location: | Northern District of California | | |
| Case Name: | Nathan Burgoon, et al. | v. | Narconon of Northern California, et al. |
| If District Court, docket entry number(s) of order(s) appealed from: | 108 | | |
| Name of party/parties submitting this form: | Narconon International, Narconon Western United States, and ABLE | | |

Please briefly describe the dispute that gave rise to this lawsuit.

Plaintiffs Nathan Burgoon and Caleb Landers, former students at Narconon drug treatment facilities, allege that they were induced to enroll at the facilities by false statements about the facilities' success rate and the nature of treatment services offered. In addition to suing the Narconon facilities Plaintiffs sued Narconon Western United States, Narconon International, and Association for Better Living and Education (collectively "Appellants"), alleging that the facilities were agents of Appellants.

Briefly describe the result below and the main issues on appeal.

Appellants, along with the Narconon facilities, moved to compel arbitration in light of clauses in Plaintiffs' admission agreements with the facilities. After a bench trial on the issue of capacity to contract, the District Court ordered Plaintiff Landers to arbitrate all his claims against all defendants, but denied Appellants' motion as to Plaintiff Burgoon, ruling that Burgoon's arbitration clause did not apply to non signatories. The issues on appeal are (1) whether Burgoon has standing to sue, and (2) whether Appellants can enforce Burgoon's arbitration clause.

Describe any proceedings remaining below or any related proceedings in other tribunals.

Plaintiff Landers has been ordered to arbitrate all his claims against all defendants, and Plaintiff Burgoon has been ordered to arbitrate his claim against defendant Narconon Northern California. Those arbitration proceedings have not commenced. Burgoon's claims against Appellants have been stayed in the District Court. Plaintiffs have noted their intent to amend the complaint to add a new named Plaintiff, but have not yet done so.

Provide any other thoughts you would like to bring to the attention of the mediator.

The parties are in the process of negotiating a settlement of all of Plaintiff Burgoon's claims. If that settlement is finalized, it will moot the present appeal.

Any party may provide additional information *in confidence* directly to the Circuit Mediation Office at ca09_mediation@ca9.uscourts.gov. Please provide the case name and Ninth Circuit case number in your message. Additional information might include interest in including this case in the mediation program, the case's settlement history, issues beyond the litigation that the parties might address in a settlement context, or future events that might affect the parties' willingness or ability to mediate the case.

CERTIFICATION OF COUNSEL

I certify that:

a current service list with telephone and fax numbers and email addresses is attached

☒ (see 9th Circuit Rule 3-2).

I understand that failure to provide the Court with a completed form and service list

☒ may result in sanctions, including dismissal of the appeal.

Signature

("s/" plus attorney name may be used in lieu of a manual signature on electronically-filed documents.)

Counsel for

Note: Use of the CM/ECF system is mandatory for all attorneys filing in this Court, unless they are granted an exemption from using the system. **To file this form electronically** in CM/ECF, complete the form, and then print the filled-in form to PDF (File > Print > PDF Printer/Creator). Then log into CM/ECF and choose Forms/Notices/Disclosure > File a Mediation Questionnaire.

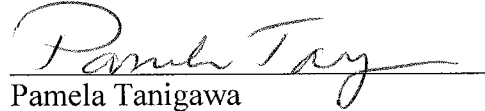
CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on February 16, 2016.

Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed the foregoing document by First-Class Mail, postage prepaid, to the following non-CM/ECF participants:

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